



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 3, 2020

CBCA 6678-RELO

In the Matter of JOSHUA W. HUGHES

Joshua W. Hughes, Fort Peck, MT, Claimant.

Tracey Z. Taylor, Jesse C. Lee, and Catharine S. DeBelle, Assistant Center Counsel, United States Army Corps of Engineers, Alexandria, VA; and Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

LESTER, Board Judge.

On March 31, 2020, claimant, Joshua W. Hughes, filed what he titled a “Request for Clarification of Board Citation,” which he asserted is necessary to assist him in deciding whether to seek reconsideration of the Board’s decision dated March 16, 2020, in this matter. Our rules regarding travel and relocation expense claims, 48 CFR 6104.401 to .408 (2019), do not contemplate post-decision motions other than requests for reconsideration, but, for the sake of expediting resolution of this matter, we exercise our discretion to accept and respond to Mr. Hughes’ request. *See Brent A. Myers*, GSBCA 15466-RELO, 01-2 BCA ¶ 31,458, at 155,328-29 (accepting and responding to request for clarification). Although we address the clarification request below, the thirty-day deadline for filing any request for reconsideration under Board Rule 407 continues to run from the date of issuance of our March 16, 2020, decision.

As we indicated in our March 16, 2020, decision, Congress, through 31 U.S.C. § 3702 (2018), granted the Administrator of General Services the authority to “settle claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty stations,” *id.*

§ 3702(a)(3), and “[t]he Administrator has delegated that authority to the Board.” *Joshua W. Hughes*, CBCA 6678-RELO, slip op. at 3 (Mar. 16, 2020). Mr. Hughes now appears to question that authority as it applies to situations other than those in which the employee is seeking an affirmative payment of travel or relocation expenses. He asserts that Board Rule 401, which applies to our travel and relocation expense cases, only refers to “the Board’s resolution of claims *by* Federal civilian employees for certain travel or relocation expenses.” 48 CFR 401(a) (emphasis added). That rule says nothing, he asserts, about travel and relocation expense repayment demands by an agency *against* an employee. Because the “claim” at issue in this matter was the USACE’s demand that he reimburse the agency for taxes on relocation expenses that the agency had paid on his behalf, Mr. Hughes questions our authority to decide the matter that he brought before the Board. He also states that the authorizing statute, 31 U.S.C. § 3702(a)(3), “does not reference the authority to settle claims involving expenses paid in full by Federal agencies for approved relocation claims when an overpayment results in a new claim initiated by the government against the employee to collect the relocation debt.” And he asserts that one of the cases that we cited in our March 16, 2020, decision, *Alexander J. Qatsha*, GSBCA 15494-RELO, 01-1 BCA ¶ 31,364, is confusing because it is inconsistent with our rules and the authorizing statute because it says that our predecessor board for travel and relocation expense matters, the General Services Board of Contract Appeals (GSBCA), decided claims both “of [and] against the United States Government.”

In reading the statute that grants authority to the Administrator of General Services to decide travel and relocation expense claims, Mr. Hughes has left out language that contradicts his interpretation. The relevant language of the statute reads as follows:

Except as provided in this chapter or another law, *all claims of or against the United States Government* shall be settled as follows:

.....

- (3) The Administrator of General Services shall settle *claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.*

31 U.S.C. § 3702(a) (emphasis added). Mr. Hughes’ reading of the sentence in subsection (3) of section 3702(a) in a manner that eliminates the prefatory language in section 3702(a), as well as that places a condition on the payment status of the relocation expenses that we are to consider, is clearly incorrect. *See Massachusetts v. Morash*, 490 U.S. 107, 115 (1989) (in interpreting a statute, we must look to the provisions of the whole law).

The language of the Board’s travel and relocation expense claims rules views all relocation expense matters brought to the Board for decision by civilian employees as “claims” of the employee, whether they be requests by the employee for payment of additional monies or requests by the employee to preclude the agency from collecting monies from the employee. In any event, it is section 3702(a), not the Board’s rules, that defines our travel and relocation expense claim authority, and our rules, which exist for procedural guidance, cannot expand or restrict that statutory authority. *See, e.g., Durr v. Nicholson*, 400 F.3d 1375, 1382 (Fed. Cir. 2005) (tribunal’s procedural rules cannot limit the tribunal’s jurisdiction); *Estes Brothers Construction, Inc. v. Department of Transportation*, CBCA 4963, 15-1 BCA ¶ 36,166, at 176,479 (same).

The *Alexander J. Qatsha* decision from the GSBCA fully supports the consistent practice of both the Board and the GSBCA of deciding travel and relocation expense “claims of or against the United States Government” upon the request of the affected employee, 01-1 BCA at 154,894, including those in which an employee challenges an agency demand to repay relocation expenses.

Harold D. Lester, Jr.

HAROLD D. LESTER, JR.

Board Judge